

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JAMALL BAKER,

Plaintiff,

Case No. C17-1678-RSL-MAT

V.

**ORDER DIRECTING PARTIES TO  
FILE JOINT STATUS REPORT**

JERALD GRANT, et al.,

## Defendants.

This is a 42 U.S.C. § 1983 prisoner civil rights action. On September 20, 2018, defendants filed for summary judgment, arguing that plaintiff failed to exhaust his administrative remedies.

51.) On February 7, 2019, the Honorable Robert S. Lasnik granted the motion in part but denied it as to plaintiff's First Amendment retaliation claim against Officer Jason Neely and his First Amendment claim against Officer Jerald Grant. (Dkt. 72 at 1.) Judge Lasnik re-referred the case to the undersigned for further proceedings, including holding an evidentiary hearing on the issue of whether plaintiff exhausted his administrative remedies in his claim against Officer Neely.

2.)

On March 13, 2019, in response to a request by the Court, plaintiff moved for the appointment of pro bono counsel. (Dkt. 79.) On April 1, 2019, defendants filed a motion for

1 summary judgment on the merits of plaintiff's two remaining claims. (Dkt. 84.) On April 11,  
2 2019, the Court directed defendants to notify the Court whether they waived their argument that  
3 plaintiff failed to exhaust his administrative remedies with respect to his First Amendment claim.  
4 (Dkt. 93.) Defendants indicated that they did not waive their exhaustion argument. (Dkt. 96.)

5 On May 2, 2019, the Court granted plaintiff's motion to appoint pro bono counsel for the  
6 limited purpose of conducting an evidentiary hearing on the issue of exhaustion. (Dkt. 104.) The  
7 Court also held defendants' motion for summary judgment in abeyance pending resolution of the  
8 exhaustion issue. (*Id.*) On June 11, 2019, the Court appointed pro bono counsel to represent  
9 plaintiff for the limited purpose of conducting the evidentiary hearing. (Dkt. 107.) The parties  
10 subsequently filed a joint status report addressing scheduling issues, and the Court entered an order  
11 scheduling the evidentiary hearing for January 23, 2020, and setting discovery deadlines related to  
12 the hearing. (Dkt. 112.)

13 On November 5, 2019, defendants filed an amended notice waiving their exhaustion  
14 argument. (Dkt. 114.) Defendants disagree that plaintiff exhausted his claim against Officer  
15 Neely, but waived the argument because of the resources needed to litigate the issue. (*Id.*)

16 Given defendants' amended notice, it appears that an evidentiary hearing is no longer  
17 necessary. In addition, as the Court appointed plaintiff's pro bono counsel for the limited purpose  
18 of conducting the evidentiary hearing, it appears that counsel have fulfilled their agreed upon role.  
19 Accordingly, the Court ORDERS the parties to meet and confer and file a joint status report **within**  
20 **30 days** that addresses: (1) whether the Court should strike the evidentiary hearing; (2) whether  
21 plaintiff's pro bono counsel should be permitted to withdraw at this time; (3) whether defendants'  
22 motion for summary judgment on the merits should be placed back on the Court's calendar, and if  
23 so, the date it should be noted; (4) whether plaintiff needs additional time to conduct discovery in

1 order to oppose the motion for summary judgment, and if so, how much time; and (5) any other  
2 issues the parties believe are pertinent at this time.

3 The Clerk is directed to send copies of this order to the parties and to the Honorable Robert  
4 S. Lasnik.

5 Dated this 19th day of November, 2019.

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8 Mary Alice Theiler  
United States Magistrate Judge  
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